

# Exhibit S

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

BENJAMIN J. KOZIK, individually and on behalf of all others similarly situated,

Plaintiff,

Case No. 6:12 CV 1870 (LEK)(TWD)

vs.

HAMILTON COLLEGE,

Defendant.

**NOTICE OF COLLECTIVE ACTION  
LAWSUIT REGARDING WAGES**

If you worked as an Intern at Hamilton College in its Athletics Department from December 20, 2009 to the present, *please read this notice.*

**A collective action lawsuit may affect your legal rights.**

***Important: You are NOT being sued. This Notice is NOT a solicitation from a lawyer. This Notice was authorized by the Court to protect your rights. Please read this Notice carefully.***

- Plaintiff Benjamin J. Kozik is a former employee at Hamilton College who worked as a salaried, non-exempt Intern in its Athletics Department in Clinton, New York and was tasked with helping to run the Football and Women's Basketball teams. Mr. Kozik has brought this lawsuit on behalf of himself and all other current and former similarly situated Interns in the Athletics Department at Hamilton College ("Hamilton" or the "Defendant"). Plaintiff claims that Defendant did not pay Interns minimum wages and/or overtime premiums for hours worked over forty hours per workweek, or pay Interns spread-of-hours pay for days on which they worked more than ten hours, or when they worked a split shift, all of which occurred frequently.
- Defendant denies any wrongdoing and/or liability and denies that any Intern was underpaid for his or her work at any time.
- The lawsuit is conditionally proceeding as a collective action on behalf of all individuals who are or have been employed by Defendant as Interns at Hamilton College in its Athletics Department in Clinton, New York, from December 20, 2009 to the present.
- The Court has not decided whether anyone is owed any minimum wages or overtime, and the Court is not endorsing the merits of this lawsuit or advising you to participate in this lawsuit.
- **Your legal rights may be affected, and you have a choice to make now:**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT</b>	
<b>ASK TO BE INCLUDED</b>	If you choose to be included in this collective action, you will be bound by any ruling, settlement or judgment. You will also share in any proceeds from a settlement or judgment, but you give up any rights to separately sue the Defendant about the same legal claims in this lawsuit.  <b><u>If you wish to be included, you must complete the form at the end of this Notice.</u></b>
<b>DO NOTHING</b>	By doing nothing, you will not be included in this collective action. This means that you give up the possibility of sharing in any proceeds that may come from a trial or settlement in this lawsuit if those bringing the lawsuit are successful. You keep any right to sue Defendant separately about the same legal claims in this lawsuit, but the limitations period on your claims continues to run. Delay in joining this action or proceeding separately may result in some or all of your potential claims expiring as a matter of law.

**This notice contains information that affects your rights. Please read it carefully. To ask to be included in this lawsuit, you must act before \_\_\_\_\_, 2013.**

### **1. Why did I get this notice?**

You are getting this notice because Defendant's records show that you may have worked as an Intern at Hamilton College in its Athletics Department in Clinton, New York. A lawsuit has been brought against the Defendant claiming that it violated various provisions of federal and New York wage and hour laws. Defendant denies any and all of Plaintiff's claims and denies any violations of any law, rule, or regulation. A trial may be necessary to decide whether the claims being made against Defendant are correct. The Honorable Lawrence E. Kahn, United States District Court Judge, and The Honorable Therese Wiley Dancks, U.S. Magistrate Judge, both in the Northern District of New York are overseeing this case. The lawsuit is known as *Benjamin J. Kozik v. Hamilton College Civil Action No. 6:12-CV-01870 (LEK/TWD)*.

### **2. What is this lawsuit about?**

This lawsuit is about whether Defendant's compensation practices violate federal and/or New York law. The lawsuit alleges that Defendant violated federal and New York law by: (1) failing to pay Interns minimum wages and/or overtime pay for any hours worked over forty per workweek and; (2) failing to pay Interns spread-of-hours pay for any hours worked over ten per day or when they worked a split-shift. Defendant denies these allegations.

### **3. What is a collective action and who is involved?**

In a collective action lawsuit, one or more persons who have similar claims can bring a lawsuit on behalf of others who have similar claims. All Interns as described in section 1 of this notice who decide to participate in the case by "opting in" to the case are conditionally part of the

“Collective” or are “Collective Action Members.” The individual who brought this lawsuit – and all of the Collective Action Members – are called the Plaintiffs. The corporate entity that they have sued – Hamilton College – is called the Defendant. One Court resolves the issues for everyone who decides to join the case.

#### **4. Why is this lawsuit a Collective Action?**

The Court has conditionally authorized this case to proceed as a Collective action under § 216(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b), with respect to Plaintiff’s federal claims that Defendant failed to pay Plaintiff minimum wages and/or overtime for hours worked over forty per workweek and also failed to pay spread-of-hours premiums when Plaintiff worked more than ten hours per day or when they worked a split shift.

#### **5. What is the Plaintiff asking for?**

With respect to the federal claims to which this notice relates, Plaintiff is seeking to recover unpaid wages, 100% (double) liquidated damages, attorneys’ fees, and costs.

#### **6. Can I join this lawsuit?**

To be eligible to participate in this lawsuit, you must have worked as an Intern at Hamilton College in its Athletics Department in Clinton, New York at any time from December 20, 2009 to the present.

#### **7. I’m still not sure if I am included.**

If you have any questions, you may contact Plaintiff’s attorneys free of charge:

Robert W. Ottinger  
The Ottinger Firm, P.C.  
20 W. 55<sup>th</sup> Street, 6<sup>th</sup> Floor  
New York, NY 10019  
(212) 571-2000  
[HamiltonInterns@ottingerlaw.com](mailto:HamiltonInterns@ottingerlaw.com)  
[www.ottingerlaw.com](http://www.ottingerlaw.com)

#### **8. What happens if I do nothing at all?**

If you choose not to join this lawsuit, you will not be affected by any ruling, judgment or settlement rendered in this case, whether favorable or unfavorable. You will not be entitled to share any amounts recovered by the Plaintiffs, if any, as part of this lawsuit. You also will be free to independently retain your own counsel and file your own lawsuit. You should be aware that your federal and state wage and hour claims are limited by three-year or six-year statutes of limitations. Delay in joining this action, or proceeding separately, may result in part or all of your claims expiring as a matter of law. If you proceed separately, you may also have to pay your own lawyer.

#### **10. What happens if I join the lawsuit?**

If you do choose to join the lawsuit by completing and returning the attached Consent to Join form by \_\_\_\_\_, 2013, you will be bound by any ruling, settlement or judgment, whether favorable or unfavorable. You will also share in any proceeds from a settlement or judgment favorable to the Collective. While this lawsuit is pending, you may be asked to testify and provide information about the work you performed for Defendant in order to help the Court decide whether you are owed any money. To join this lawsuit, you must sign and promptly return the enclosed Consent to Join Form by \_\_\_\_\_, 2013.

**10. Can I participate in this lawsuit even though, due to my immigration status, I am or was not working at Hamilton College legally?**

Your immigration status does not affect your entitlement to participate in this lawsuit.

**11. Can Defendant retaliate against me if I join the lawsuit?**

**It is a violation of federal law for Defendant to fire, discipline, or in any manner discriminate or retaliate against you for taking part in this case.**

If you believe that you have been penalized, discriminated against, or disciplined in any way as a result of your receiving this notification, considering whether to join this lawsuit, discussing the lawsuit with others, or actually joining this lawsuit, you may contact Plaintiff's lawyers or any other lawyers of your choosing.

**12. How do I ask the Court to include me in the case?**

Enclosed is a form called "Consent to Join." **If you choose to join this lawsuit, it is extremely important that you read, sign, and promptly return the Consent to Join form.** An addressed and postage-paid envelope is enclosed for your convenience. Should the enclosed envelope be lost or misplaced, the Consent to Join Form must be sent to:

**The Ottinger Firm, P.C.  
Re: Hamilton College  
20 West 55<sup>th</sup> Street, 6<sup>th</sup> Floor  
New York, New York 10019**

The signed Consent to Join form must be postmarked by \_\_\_\_\_, 2013. If your signed Consent to Join form is not postmarked by \_\_\_\_\_, 2013, you may not be allowed to participate in the federal law portion of this lawsuit.

**13. Do I have a lawyer in this case?**

The Plaintiffs in this lawsuit are represented by: Robert W. Ottinger, Ariel Y. Graff and other lawyers at The Ottinger Firm, P.C., 20 W. 55<sup>th</sup> Street, 6<sup>th</sup> Floor, New York, NY 10019. Their full contact information is listed in section 7 above. You can choose to be represented by The Ottinger Firm, P.C., or if you prefer, you are allowed to hire your own lawyer at your own expense.

**14. How will Plaintiffs' lawyers be paid?**

If you choose to be represented by Plaintiffs' lawyers, you will not be required to pay any attorneys' fees or costs out of your own pocket. Any attorneys' fees will be paid out of any recovery that is obtained. If there is a recovery, the fees may be part of a settlement obtained or money judgment entered in favor of Plaintiffs, or may be ordered by the Court to be separately paid by the Defendant, or may be a combination of the two. If you are represented by The Ottinger Firm, P.C. and Plaintiffs do not recover anything in this lawsuit, you will not have to pay any attorneys' fees.

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Plaintiff,

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HAMILTON COLLEGE,

Defendant.

**CONSENT TO JOIN COLLECTIVE ACTION  
LAWSUIT REGARDING WAGES**

By signing below, I \_\_\_\_\_ (print name), consent to participate  
in this lawsuit.

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SIGNATURE

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PRINT NAME

ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

TELEPHONE NO.: \_\_\_\_\_

**THE LAST DAY TO SUBMIT THIS CONSENT TO JOIN FORM IS \_\_\_\_\_, 2013.**

***CONSENT TO JOIN FORMS SUBMITTED AFTER \_\_\_\_\_, 2013 WILL BE REJECTED UNLESS GOOD  
CAUSE IS SHOWN FOR THE DELAY***

**IF YOU WISH TO SEEK RECOVERY OF UNPAID MINIMUM WAGES, OVERTIME PAY, OR  
SPREAD-OFF-HOURS PAY UNDER THE FEDERAL FAIR LABOR STANDARDS ACT, YOU MUST  
MAIL THIS CONSENT TO JOIN FORM POSTMARKED BY \_\_\_\_\_, 2013 TO:**

The Ottinger Firm, P.C.  
Re: Hamilton College  
20 West 55<sup>th</sup> Street, 6<sup>th</sup> Floor  
New York, New York 10019

**If you fail to return a signed Consent to Join Form by \_\_\_\_\_, 2013, you may not be eligible to  
participate in the FLSA portion of this lawsuit**